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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 220110-0007]

RTID 0648-XX075

Fisheries of the Northeastern United States; Northeast Skate Complex; 2022 and 2023 Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes Northeast skate specifications for the 2022 fishing year, and projects specifications for fishing year 2023, as recommended by the New England Fishery Management Council. This action is necessary to establish annual allowable harvest levels for the skate fishery that prevent overfishing while enabling optimum yield, using the best scientific information available. This rule also informs the public of the proposed fishery specifications and provides an opportunity for comment.

DATES: Comments must be received by *[insert date 30 days after date of publication in the **FEDERAL REGISTER**]*.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2021-0116, by the following method:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal.

1. Go to <https://www.regulations.gov>, and enter “NOAA-NMFS-2021-0116” in the Search box;
2. Click the “Comment” icon, complete the required fields; and
3. Enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Copies of the Supplemental Information Report (SIR) and other supporting documents for this action are available upon request from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. These documents are also accessible via the Internet at <https://www.nefmc.org/management-plans/skates>.

FOR FURTHER INFORMATION CONTACT: Cynthia Ferrio, Fishery Policy Analyst, (978) 281-9180.

SUPPLEMENTARY INFORMATION:

Background

The New England Fishery Management Council (Council) manages a complex of seven skate species (barndoor, clearnose, little, rosette, smooth, thorny, and winter skate)

in the New England and Mid-Atlantic regions under the Northeast Skate Complex Fishery Management Plan (FMP). Skates are harvested and managed in two different fishery sectors, one for food (the wing fishery) and one for bait used in other fisheries (the bait fishery). The FMP requires the review and specification of annual skate harvest limits, including: an annual catch limit (ACL), an annual catch target (ACT), a fishery-level total allowable landings limit (TAL), separate TALs for the wing and bait fisheries, and other management measures, as needed, for up to two fishing years (FY) at a time. This action proposes skate specifications for the 2022 fishing year, and projects specifications for 2023, as recommended by the Council. The current specifications that were implemented through Framework Adjustment 8 to the FMP (85 FR 33579; June 2, 2020) expire on April 30, 2022, but will roll over beyond that date until a final rule for new specifications is in effect.

Proposed Specifications

This action proposes the Council's recommended northeast skate fishery specifications for fishing year 2022 and projects unchanged specifications for fishing year 2023. These proposed catch limits are consistent with recommendations from the Council's SSC, Skate Committee, and Skate Plan Development Team (Skate PDT). The resulting proposed specifications would increase all catch limits by at least 14 percent in fishing year 2022, largely as a result of increased skate biomass throughout the complex. A comparison of the current 2021 and the proposed 2022-2023 specifications is summarized below in Table 1. The Council will review the projected 2023 specifications to determine if any changes need to be made prior to the 2023 fishing year. We will publish a notice prior to the 2023 fishing year to confirm these limits as projected or a

proposed rule for any necessary changes.

Table 1--Comparison of Current 2021, and Proposed 2022-2023 Skate Fishery Specifications, in metric tons

	2021 (Current)	2022-23 (Proposed)	Percent Change
ABC/ACL	32,715	37,236	+14
ACT	29,444	33,513	+14
Overall Fishery TAL	17,864	21,142	+18
Wing TAL (66.5% of Overall TAL)	11,879	14,059	+18
Wing Season 1 TAL (57% of Wing TAL)	6,771	8,014	+18
Wing Season 2 TAL	5,108	6,045	+18
Bait TAL (33.5% of Overall TAL)	5,984	7,082	+18
Bait Season 1 TAL (30.8% of Bait TAL)	1,843	2,181	+18
Bait Season 2 TAL (37.1% of Bait TAL)	2,220	2,627	+18
Bait Season 3 TAL	1,921	2,274	+18

The Council did not recommend changes to regulations governing the skate fishery. Although the Skate PDT considered increasing trip limits along these proposed specifications, no changes to other management measures are recommended. Trip limits were recently raised in both the wing and bait fisheries through Framework Adjustment 8 to the Skate FMP (85 FR 23240; April 27, 2020), and it was determined that it is unnecessary to consider trip limit changes again at this time.

Classification

Consistent with regulations at 50 CFR 648.320, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Northeast Skate Complex FMP, the Magnuson Stevens Fishery Conservation and Management Act, and other applicable law, subject to further consideration after public comment.

This action is exempt from review under Executive Order 12866 because it contains no implementing regulations.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows.

The Council conducted an evaluation of the potential socioeconomic impacts of the proposed measures in conjunction with a SIR. There are no proposed regulatory changes in this skate action, so none are considered in the evaluation. The proposed specifications would increase quotas in both the wing and bait skate fisheries by 18 percent in fishing year 2022 and maintain these proposed catch limits with no changes for fishing year 2023. This action proposes no changes to other management measures beyond specifications, such as per-trip possession limits.

This proposed action would affect entities that participate in commercial skate fishing (those that hold commercial skate permits and/or report skate landings). Vessels may hold multiple fishing permits and some entities own multiple vessels and/or permits. According to the Northeast Fisheries Science Center commercial ownership database, 295 commercial fishing affiliate firms owning 321 vessels landed skates during the 2018-2020 period (the most recent and complete data available), and all 295 of those commercial entities are categorized as small businesses.

The proposed specifications are expected to provide some additional operational flexibility and opportunity within the skate fishery without increasing risk to the resource or substantially changing fishing behavior. Under this action, the annual coastwide quotas

would increase, but there are no proposed changes to the management measures (such as per-trip possession limits) that are most likely to affect fishery behavior. While entities issued a commercial skate permit may experience a slight positive impact related to potentially higher landings throughout the course of the entire year, short-term landings are not expected to increase. Additionally, fishing behavior and short-term landings are often based on market conditions, which are not expected to substantially change as a result of these specifications. As such, the proposed action is not expected to have an impact on the way the fishery operates/fishing behavior, or a substantial impact on the revenue of small entities.

Overall, the Council's analyses indicate that the overall economic impact of this proposed action is expected to be slightly positive, and that the proposed specifications are not expected to substantially change fishing effort, the risk of overfishing, prices/revenues, or fishery behavior. Therefore, the Council concluded, and NMFS agrees, that this action would not have a significant impact on a substantial number of small businesses. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This action would not establish any new reporting or record-keeping requirements.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 10, 2022.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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